**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD**

**THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA**

Writ Petition No.7990 of 2000

Dated: 13-06-2007

**Between:**

Galem Nageswara Rao, s/o Venkanna.

**... Petitioner**

**and**

1. The Special Deputy Collector,
   Tribal Welfare, K.R. Puram,
   West Godavari District and 2 others.

**... Respondents**

**ORDER:**

This writ petition is filed seeking a *mandamus* to declare the order dated 30-12-1999 passed in S.R.No.67/99 by first respondent – Special Deputy Collector, Tribal Welfare, K.R. Puram, West Godavari District,

as illegal and without jurisdiction, whereby first respondent directed second respondent – Mandal Revenue Officer to eject one Makamatla Venkateswara Rao from out of the land in an extent of Ac.1-58 cents in R.S.No.317 of Koya Rajahmundry village, West Godavari District.

2. Petitioner states that his grandfather viz., Galem Veera Venkaiah, purchased the land in an extent of Ac.1-58 cents in R.S.No.317 of Koya Rajahmundry village, West Godavari District. After the death of his grandfather, the children of his grandfather inherited the said property. Thereafter, in the partition that had taken place in 1965, the said land fell to his share and since then he has been in uninterrupted and peaceful possession and enjoyment of the same. While so, first respondent on the premise that third respondent herein is the owner of the said land issued notice to one Makamatla Venkateswara Rao and as he was absent set him *ex parte* and passed an order on 30-12-1999, directing second respondent to eject the said Venkateswara Rao. The said order is questioned in this writ petition.

3. Despite the fact that notices are served on respondents, they have not chosen to file any counter affidavit. In fact, third respondent at the instance of petitioner has come forward and given an affidavit, which is filed as a material paper by the petitioner, wherein it is stated that he is not at all interested in the land in question and he was never in possession and enjoyment of the land in question. It is further stated in the said affidavit that petitioner is in possession and enjoyment of the said land as pattadar and his lands are adjacent to the land in question.

4. In the light of the said submission made by third respondent and having regard to the fact that petitioner has taken a categorical stand that the land in question is his ancestral property and he inherited the same, which is not controverted, this Court is of the view that the said order dated 30-12-1999 is liable to be set aside.

5. Accordingly, the writ petition is allowed and the impugned order dated 30-12-1999 is hereby set aside. No costs.

If respondents 1 and 2 have any grievance, they may hold an enquiry after issuing notice to petitioner and petitioner is at liberty to produce all evidence to establish his title.

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**JUSTICE GOPALAKRISHNA TAMADA**

Dt.13-06-2007
GLV